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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,512	10/17/2001	Rusi P. Taleyarkhan	6321-202	6895

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EXAMINER

PALABRICA, RICARDO J

ART UNIT	PAPER NUMBER
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3663

DATE MAILED: 08/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/981,512	Applicant(s) TALEYARKHAN, RUSI P.	
	Examiner Rick Palabrica	Art Unit 3663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-75 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-60, drawn to an **apparatus** (generator, armament, and medical device), classified in class 376 (subclass 100), class 102 (subclass 200+), and class 606 (subclass 128), respectively.
 - II. Claims 60-75, drawn to a **process** (producing energetic bursts), classified in class 376, subclass 149.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the apparatus can be used to practice another and materially different process such as for joule heating or for light production.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

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2. Applicant is advised that the reply to this invention election requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

3. If invention I is elected, Applicant is required under 35 U.S.C. 121 to elect one of the following disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim appears generic for Group I; claim 61 is generic to Group II.

- A: Wherein the apparatus is a burst generator with a liquid under tension state (e.g. see claim 1).
- B: Wherein the apparatus is a burst generator with a liquid under deep metastable state (e.g., see claim 23).
- C: Wherein the apparatus is an armament (e.g., see claim 25).
- D: Wherein the apparatus is a medical device (e.g., see claim 38).
- E: Wherein the apparatus is a pulse generator (e.g., see claim 51).

4. If either species A or E is elected, applicant is further required under 35 U.S.C. 121 to elect a single species of the structure for placing a liquid under tension, for purposes of examination. For example, applicant may elect acoustic wave source alone or piezoelectric source alone (e.g., see claims 2, 3, 6, 7, and also claims 52 and 53). This additional requirement is to facilitate examining due to the broad range of sources disclosed as suitable.

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5. If either species A or E is elected, applicant is further required under 35 U.S.C. 121 to elect a single species of the structure for cavitating. For example, applicant may elect fundamental particles alone or laser source alone (e.g., see claims 10, 11, 12 and 13, and also claims 54 and 55). This additional requirement is to facilitate examining due to the broad range of structures disclosed as suitable.

6. If either species A or E is elected, applicant is further required under 35 U.S.C. 121 to elect a single species of liquid from among the Markush group of liquids disclosed, for purposes of examination. For example, applicant may elect water alone (e.g., see claims 14 and 57 for species A and E) or urine alone (e.g., see claim 15 for species A). This additional requirement is to facilitate examining due to the diverse liquids disclosed as suitable.

7. If species C is elected, applicant is further required under 35 U.S.C. 121 to elect a single species of the element controlled by the structure for controlling thrust, for purposes of examination. For example, applicant may elect level of tension state alone (e.g., see claim 29) or energy released by structure for cavitating alone (e.g., see claim 30). This additional requirement is to facilitate examining due to the diverse sources disclosed as suitable.

8. If species C is elected, applicant is further required under 35 U.S.C. 121 to elect a single species of the structure for cavitating, e.g., neutron source alone. This

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additional requirement is to facilitate examining due to the diverse structures disclosed as suitable (e.g., see claims 31 and 32).

9. If species C is elected, applicant is further required under 35 U.S.C. 121 to elect a single species of liquid from among the Markush group of liquids disclosed, for purposes of examination. For example, applicant may elect water alone or mercury alone. This additional requirement is to facilitate examining due to the diverse liquids disclosed as suitable (e.g., see claim 33).

10. If species D is elected, applicant is further required under 35 U.S.C. 121 to elect a single species of the structure for initiating cavitation. For example, applicant may elect an acoustical source (e.g., see claim 43) or fundamental particles alone (e.g., see claim 44) or laser alone (e.g., see claim 50). This additional requirement is to facilitate examining due to the broad range of structures disclosed as suitable.

11. If species D and fundamental particles are elected, Applicant is required under 35 U.S.C. 121 to elect a single species of particles from among the Markush group of particles disclosed, for purposes of examination. For example, applicant may elect alpha emitters alone or neutron sources alone. This additional requirement is to facilitate examining due to the diverse particles disclosed as suitable (e.g., see claim 44).

12. If species D is elected, Applicant is required under 35 U.S.C. 121 to elect a single species of bodily liquid from among the Markush group of liquids disclosed, for purposes of examination. For example, applicant may elect blood alone or mucus alone. This additional requirement is to facilitate examining due to the diverse liquids disclosed as suitable (e.g., see claim 47).

13. If invention II is elected, applicant is further required under 35 U.S.C. 121 to elect a single species of the structure for placing a liquid under tension, for purposes of examination. For example, applicant may elect acoustic wave source alone or centrifugal source alone (e.g., see claims 62 and 63). This additional requirement is to facilitate examining due to the broad range of sources disclosed as suitable.

14. If invention II is elected, applicant is further required under 35 U.S.C. 121 to elect a single species of the structure for cavitating. For example, applicant may elect piezoelectric source alone or fundamental particles alone or laser source alone (e.g., see claims 66, 67 and 75). This additional requirement is to facilitate examining due to the broad range of structures disclosed as suitable.

15. If invention II is elected, applicant is further required under 35 U.S.C. 121 to elect a single species of liquid from among the Markush group of liquids disclosed, for purposes of examination. For example, applicant may elect water alone or mercury

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alone (e.g., see claim 69). This additional requirement is to facilitate examining due to the diverse liquids disclosed as suitable.

16. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

17. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

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Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rick Palabrica whose telephone number is 571-272-6880. The examiner can normally be reached on 6:00-4:30, Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RJP
August 17, 2006


RICARDO J. PALABRICA
PRIMARY EXAMINER